

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday December 3, 2015
9:30 A.M.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: November 20, 2015

RE: Closed Session of the Board to be held on December 3, 2015

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. WILSON CONSTRUCTION COMPANY, 13-R4D3-1597 THROUGH 1599

PETITIONS FOR RECONSIDERATION:

1. BURTECH PIPELINE, INC., 13-R3D2-0830 AND 0831
2. EMPLOYER SOLUTIONS STAFFING GROUP, 12-R3D6-3207 (ER)
3. FASTEMPS, INC., 12-R3D6-3208 (ER)
4. STONEWARE ENTERPRISES, INC., 13-R3D1-3514

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

ORDERS DISMISSING APPEAL:

MATTERS INVOLVING LATE APPEALS:

(These are matters such as orders dismissing appeal, orders granting leave to file late appeal and orders denying leave to file late appeal)

ORDER DENYING LATE APPEAL

1. GARDNER TRUCKING INC., 15-R1D2-9184
2. MARIA C/MISAE L MEDINA DBA FLASH TIRE SERVICE, 15-R6D5-9183

ORDER GRANTING LATE APPEAL

1. HOME DEPOT, U.S.A., INC DBA HOME DEPOT #6683, 15-R3D3-4718 THROUGH 4180

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. ACTION METAL RECYCLING, INC., R2D2-1125 THROUGH 1126
2. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
3. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
4. ECHO ALPHA INC. ET AL, 14-R3D1-0802 THROUGH 0804
5. EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133
6. EMPLOYER SOLUTIONS STAFFING GROUP II, LLC, 12-R3D6-3207
7. FASTEMPS INC., 12-R3D6-3208

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8. HERMAN WEISSKER, INC., 13-R3D1-3279
9. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
10. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
11. McCARTHY BUILDING CO., INC., 12-R1D4-3458
12. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854
13. SIERRA FOREST PRODUCTS, 09-R2D5-3979
14. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
through 2570
15. UNITED PARCEL SERVICE, 14-R2D1-1779
16. W.A. RASIC CONSTRUCTION, INC., 13-R3D1-2952
17. ABM FACILITY SERVICES, INC., DBA ABM BUILDING VALUE, 12-R3D6-
3496 THROUGH 3498

LEGISLATION:

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
3. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
4. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
5. DUININCK BROS., INC., 34-2012-80001129 (06-2871)

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6. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
7. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
8. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
9. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
10. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
11. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
12. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
13. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
14. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
15. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
16. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
17. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
18. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
19. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
20. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
21. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
22. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
23. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
24. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)

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25. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
26. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
27. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
28. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
29. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
30. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945 (08-R2D1-3093 ~ 3098)
31. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
32. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
33. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204 (12-R3D1-0781)
34. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
35. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
36. TRI STATE STAFFING, 12-R6D2-0378
37. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)

APPELLATE COURT:

1. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
2. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
3. THYSSENKRUPP ELEVATOR CORPORATION, C077115, 34-2013-80001456 (11-R2D1-2217 ~ 2219)
4. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, C078953, 34-2011-80000965, (10-R6D2-0188 THROUGH 0191)

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. 99 CENTS ONLY STORES, 15-R2D3-3346
2. PAUL B ACCINELLI, 15-R2D4-2897 AND 2898
3. ANHEUSER-BUSCH LLC, 14-R2D2-1134 AND 1135
4. AREA DEVELOPMENT, INC, 15-R1D1-3418
5. AREVALO LANDSCAPING SERVICES, 15-R1D2-2785
6. ART OF THE CRAFT, 15-R2D3-3693 AND 3694
7. JOHN RILEY ASHMORE DBA ASHMORE MASONRY, 15-R2D3-3717
8. ASSOCIATED READY MIXED CONCRETE INC., 15-R4D3-1594 AND 1595
9. ATILANO INC. DBA WEST COAST CONCRETE INC., 15-R3D3-3529
10. AWARE PRODUCT, 15-R4D3-1803 THROUGH 1805
11. AZTEC CONSTRUCTION & RESTORATION, 15-R2D3-3695
12. BAR ALE INC, 15-R2D1-2011 THROUGH 2013
13. BELL PRIVATE SECURITY, 15-R4D1-1464
14. BEN CASTRO MASONRY, INC., 15-R4D4-0119
15. BERKELEY ROOF SERVICES, INC., 15-R1D4-1558 THROUGH 1560
16. BLUE ARC ELECTRIC, INC., 15-R1D2-1426 AND 1427
17. BOYLES-SNYDER CO, INC., 14-R4D1-3260 THROUGH 3262
18. BRAND FARMS, LLC, 15-R6D2-2195 THROUGH 2197
19. BRAZIL QUALITY ROOFING INC., 15-R2D3-3839
20. CAL COLOR GROWERS, LLC, 15-R6D1-2747 THROUGH 2749

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21. CAL COLOR GROWERS, LLC, 15-R6D1-2753
22. CAL COLOR GROWERS, LLC, 15-R6D1-2754
23. CAL COLOR GROWERS, LLC, 15-R6D1-2890
24. CASCADE COMFORT SERVICE INC, 15-R2D3-3690
25. CINQUINI FARMS, 15-R2D3-3196 AND 3197
26. CITY OF LOS ANGELES DEPARTMENT OF WATER & POWER, 15-R4D3-2419
27. CW ELECTRIC, INC DBA CW ELECTRIC, 15-R2D3-3769
28. DEVICENZI METAL PRODUCTS INC., 15-R6D1-2280 THROUGH 2283
29. DRAGON STEEL INC., 15-R4D3-1796
30. DUENKEL ELECTRIC INC., DBA D-ELECTRIC, 15-R1D2-1980
31. DYCO METAL SPECIALTIES INC., 15-R6D2-2546 AND 2547 & 2880
32. EAGLE MOULDING COMPANY #1, 15-R6D1-3812 THROUGH 3817
33. EAST OCEAN SEAFOOD RESTAURANT, 15-R1D4-0456
34. ELSON ELECTRIC, INC., 14-R2D2-3491 AND 3492
35. FARACI HOUSE PAINTING, 15-R1D3-1009
36. FARMERS INTERNATIONAL, INC., 15-R2D3-3551 AND 3552
37. FINE QUALITY METAL FINISHING, INC, 15-R3D5-3811
38. FOOD SOURCE (DBA RALEY'S) WAREHOUSE CONCEPTS INC. DBA, FOOD SOURCE, 15-R1D5-3160 AND 3161, AND 15-R1D5-4202
39. FRESH & EASY, LLC DBA FRESH & EASY CAMPUS PRODUCE, 15-R7D2-3404 AND 3405
40. GANAHL LUMBER, 15-R3D1-2570
41. GARNER & SONS ACOUSTICS, 15-R4D4-0540
42. GCCI, INC., 15-R1D5-0719

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43. HAMPTON TEDDER ELECTRIC, 15-R3D5-0804
44. H D PAINT COMPANY, 15-R6D5-3477
45. HILMAR CHEESE COMPANY INC, 15-R2D4-2142 AND 2143
46. JAMES HOUSE DBA HOUSE CONSTRUCTION, 14-R4D1-3860
47. MARCOS INDALECIO DBA SEVEN GOLD SERVICE, 15-R1D4-0514 AND 0515
48. MARCOS INDALECIO DBA SEVEN GOLD HAULING, 15-R1D4-1431 AND 1432
49. INSULATED PRODUCTS CORP. DBA SIMPLE CONTAINER SOLUTIONS, INC., 15-R4D1-0589 THROUGH 0591
50. JENSCO, INC., 15-R6D7-1004
51. KENYON PLASTERING OF STOCKTON INC., 15-R1D5-1112
52. KOME INTERNATIONAL CUISINE, INC., DBA KOME INTERNATIONAL CUISINE, 15-R4D4-1810
53. LASSEN COMMUNITY COLLEGE, 15-R2D3-3768
54. LESTER LUBE INC DBA FRESNO TRUCK WASH, 15-R6D5-3957 AND 3958
55. LOS ANGELES COUNTY/RANCHO LOS AMIGOS NATIONAL REHABILITATION CENTER, 15-R3D5-0876
56. MANAGEMENT TRAINING CORPORATION DBA MTC, 15-R3D2-3433
57. MI TIERRA SUPER MERCADO, 15-R1D2-3829 AND 3830
58. MODERN DEVELOPMENT, 15-R3D1-2733
59. MOWERY THOMASON INC., 15-R3D5-3705
60. NABORS COMPLETION & PRODUCTION SERVICES CO., 14-R4D7-3852
61. NORTHWEST EXCAVATING, INC., 15-R4D1-0771 AND 0772
62. NU FLOW AMERICA INC., 15-R3D1-2802
63. OLIVET INTERNATIONAL INC., 15-R3D3-0108 THROUGH 0111

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64. PABCO BUILDING PRODUCTS, LLC. DBA PABCO PAPER, 15-R4D1-0200 THROUGH 0204
65. PENGILLY MASONRY INC, 15-R2D4-2982
66. PLANT CONSTRUCTION COMPANY, LP, 15-R1D4-0716
67. RAO CONSTRUCTION COMPANY INC, 15-R2D3-3647 THROUGH 3649
68. REPUBLIC WASTE SERVICES OF SOUTHERN CALIFORNIA, LLC, 15-R3D1-2548 THROUGH 2550
69. RIGO'S PLASTER, 15-R4D4-2026 AND 15-R4D4-4203
70. RIO TINTO MINERALS DBA US BORAX, 15-R3D5-1331
71. ROBINSON ENTERPRISES INC, 14-R2D1-4049
72. ROSS AND SONS REFRIGERATION AND CONSTRUCTION INC, 15-R7D1-2500 THROUGH 2504
73. SAE ENGINEERING INC., 15-R6D1-1627 THROUGH 1629
74. ROGELIO SALAZAR DBA SANTA FE AUTO REPAIR, 15-R6D5-3676
75. S.C. ANDERSON, INC., 15-R4D7-1812
76. SCHUFF STEEL, 15-R1D2-3514
77. SEUS FAMILY FARMS, INC., 15-R2D3-3427
78. SILVERADO CONTRACTORS, INC., 15-R1D3-2077 AND 2078
79. TIMOTHY ROY SIMMONS DBA CLEAR VIEW BUILDERS, 15-R6D5-3598 THROUGH 3600
80. SOUTHERN CALIFORNIA FITNESS SERVICE INC. DBA NOR CAL FITNESS SERVICE, 15-R1D5-3338
81. STANLEY WINDOW CARE, 14-R3D1-3344
82. SVENHARDS SWEDISH BAKERY, INC., 15-R6D1-3579 THROUGH 3587
83. THE SUN VALLEY GROUP, 15-R2D3-2805 AND 2806

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- 84. TRAN DESIGN INC DBA FOAM DESIGN CENTER, 15-R6D7-2678 THROUGH 2684
- 85. TR TRADING INC., DBA MASTERMIND, 15-R4D4-1971
- 86. TV CONSTRUCTION, 14-R1D3-2469
- 87. JOEL VASA, 15-R1D3-0991
- 88. VICTOR VERA DBA SUN CONSTRUCTION, 15-R4D1-2025
- 89. VOLT WORKFORCE SOLUTIONS, 15-R4D7-1054
- 90. WALGREENS OSHKOSH, INC., 14-R4D4-1629
- 91. WEST COAST FRAMING, 15-R1D2-3831
- 92. WESTGATE HARDWOODS INC., 15-R2D3-3260
- 93. XERXES CORP., 15-R3D1-3843 THROUGH 3845

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.